## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

ABC Corporation I et al,

Plaintiff,

v.

THE PARTNERSHIPS and UNINCORPORATED ASSOCIATIONS IDENTIFIED ON SCHEDULE "A",

Defendant.

CASE NO. 1:20-cv-04806

Judge: Honorable Thomas M. Durkin

Magistrate Judge: Jeffrey Cole

## DEFENDANT GYROOR'S MOTION FOR CLARIFICATION OF THE PRELIMINARY INJUNCTION ORDER [DKT 456]

Defendant Gyroor, by and through counsel, moves this Court for a clarification of its Preliminary Injunction Order [Dkt, 456], in view of the Court's recent orders [Dkt. 558, 559].

## 1. Clarification regarding "G-11 model" hoverboard

Defendant Gyroor owns the "Gyroor Brand." The Gryoor brand encompasses a variety of hoverboards, electric scooters, electric bikes, and other accessory products. Examples are provided below.



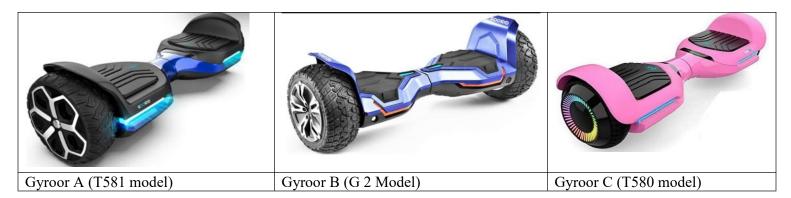
Shown above, most Gyroor-brand products are irrelevant to this action and do not infringe Plaintiffs' design patents. Unless specific allegations are made against a particular Gyroor-brand product, the product should not be presumably infringing.

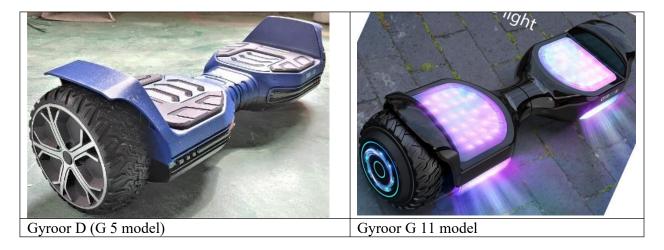
"An injunction 'must not be broader than the legal justification for its entry." *Common Cause Ind. v. Lawson*, 978 F.3d 1036, 1041 (7th Cir. 2020) (quoting *Henderson v. Box*, 947 F.3d 482, 487 (7th Cir. 2020)). This Court also recognizes that the scope of the preliminary injunction is limited to Plaintiffs' motion paper. [Dkt. 558, p. 2] ("review shows that Yanjin-US was included in the chart in the proposed order even though it was *not* mentioned in the motion papers. Thus, Yanjin-US should not have been referenced in the preliminary injunction order entered on October 13, 2021, R. 456.").

Here, Plaintiffs made no allegations against Gyroor-brand products — "G 11 model" hoverboard. The "G 11 model" hoverboard should not be presumably infringing. The injunction should be limited to the products in Plaintiffs' motion paper [Dkt. 384, 385].

*First*, Plaintiffs only alleged infringement against four types of Gyroor-brand products in their motion paper – "Gyroor A," "Gyroor B," "Gyroor C," and "Gyroor D." [Dkt. 384, §I.A.2., pp. 26-27]. The injunction should be limited to the four accused products.

Second, the "G 11 model" has a distinct design from the other four accused products ("Gyroor A (T581 model)," "Gyroor B (G 2 Model)," "Gyroor C (T580 model)," and "Gyroor D (G 5 model)"). G 11 model is especially distinguishable because of its LED lit standing pedals and wheel covers. Comparisons are provided below.





*Third*, ASIN for "G 11 model" hoverboard (B08RYMXRWM) was included in the chart "Exhibit B" of the proposed order [Dkt. 456, p. 15], even though the "G-11 model" hoverboard was not mentioned in plaintiffs' motion papers.

Therefore, Defendant respectfully requests for a clarification as to whether the "G-11 model" hoverboard (B08RYMXRWM) was referenced in the preliminary injunction order due to an error.

## 2. Clarification regarding third-parties in "Exhibit A" of the Preliminary Injunction Order

Many third-party merchants were referenced in the "Exhibit A" of the Preliminary Injunction Order. [Dkt. 486, p. 14]. After reviewing supporting exhibit to the "Store and Website" [Dkt. 383, pp.

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2-3], the Court recognizes that "Yanjin-US should not have been referenced in the preliminary

injunction order entered on October 13, 2021, R. 456" because "it was not mentioned in the motion

paper." [Dkt. 558, p.2].

This Court further recognizes that "Plaintiffs included Yanjin-US in the proposed order by

mistake." [Dkt. 559, p. 2]. "[B]ecause the Court was unaware of Yanjin-US's existence prior to

Plaintiffs listing it in the proposed order...it is impossible for the Court to enjoin an entity without

knowledge that the entity exists." *Id.* at p.3.

Here, even taking into account the supporting exhibit to the "Store and Website," [Dkt. 383],

there are 14 third-party merchants on the Exhibit A (No. 1-11, 13-14, 17) that were not mentioned in

Plaintiffs' motion paper.

Because motion paper [Dkt. 384] was fully briefed, the Court must have reviewed all relevant

pleadings, and evidence including the supporting exhibit before granting the extraordinary injunctive

relief.

Therefore, Defendant respectfully requests for a clarification as to whether the 14 third-party

merchants were referenced in the preliminary injunction order due to an error.

Date: 06/19/2022

/s/ Tianyu Ju

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**CERTIFICATE OF SERVICE** 

I HEREBY CERTIFY that on this June 19, 2022, I electronically filed the foregoing file with

the Clerk of Court using the CM/ECF system, and service was perfected on all counsel of record and

interested parties through this system, which will deliver a true and correct copy of the foregoing

documents via CM/ECF.

Date: 06/19/2021 /s/ Tianyu Ju

Tianyu Ju

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